

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOHN ASMODEO,

Petitioner,

-against-

JOHN/JANE DOE,

Respondent.

21-CV-5112 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Petitioner, who is currently incarcerated at F.C.I. Danbury, brings this *pro se* petition for a writ of *habeas corpus* under 28 U.S.C. § 2241, seeking credit for time that he spent in pretrial detention in Putnam County.<sup>1</sup> For the following reasons, this petition is transferred to the United States District Court for the District of Connecticut.

In order to entertain a *habeas corpus* petition under 28 U.S.C. § 2241, a court must have jurisdiction over the custodian. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494-95 (1973) (writ of *habeas corpus* does not act upon the prisoner who seek relief, but upon his or her custodian). Thus, the jurisdiction of a *habeas* petition challenging a petitioner's physical confinement generally lies in the district of his confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004). Petitioner is currently detained at F.C.I. Danbury, which is located in the judicial district of the United States District Court for Connecticut. Therefore, in the interest of justice, this Court transfers this petition to the District of Connecticut. *See* 28 U.S.C. § 1406(a).

The Clerk of Court is further directed to transfer this action to the United States District Court for the District of Connecticut. Whether Petitioner should be permitted to proceed further

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<sup>1</sup> Petitioner filed a motion under 28 U.S.C. § 2255 challenging his conviction, which is pending in this District. *See Asmodeo v. United States*, ECF 7:20-CV-8330 (VB) (S.D.N.Y.)

without payment of fees is a determination to be made by the transferee court.<sup>2</sup> This order closes this case.

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppededge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: July 21, 2021  
New York, New York

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
Chief United States District Judge

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<sup>2</sup> Petitioner did not submit an application for leave to proceed *in forma pauperis*.